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Donald Evans
Director
Regulatory Affairs

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 6, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: EX-PARTE, CC Docket No. 92-101

Dear Ms. Searcy:

In accordance with the Commission's Rules governing EX-PARTE communications, please be advised that on January 6, 1993, the attached written ex-parte was delivered to Ms. Cheryl Tritt, Chief-Common Carrier Bureau.

Please place a copy of this notice and the attached letter in the record of this proceeding.

Sincerely,

Donald F. Evans

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FEDERAL COMMUNICATIONS COMMISSION
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January 6, 1993

Cheryl Tritt
Chief-Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Ms. Tritt:

The recent inaction by the Commission allowing certain price cap local exchange carriers (LEC) to begin charging ratepayers for their voluntarily provision of post retirement benefits under SFAS 106 is very disappointing. Moreover, allowing any LEC to pass through such voluntary obligations to their captive ratepayers is patently unfair and unreasonable.

The Commission must be clear on what SFAS 106 requires. Prior to the adoption of SFAS 106, companies which voluntarily offered post retirement benefits accounted for the costs of providing these benefits on a pay-as-you-go basis. That is, as costs were incurred companies recognized them on their books. From a regulatory point of view, the Commission has allowed LECs to recover these actual costs through access charges. The adoption of SFAS 106 has not changed the actual costs incurred by the LECs that offer post retirement benefits. What has changed is the method of recognizing future costs. SFAS 106 merely requires the LECs to change their accounting method from pay-as-you-go to an accrual which will recognize post retirement costs during the period that employees earn the benefits. To put it very plainly, <u>SFAS 106 has not triggered an economic event which will increase the actual cash cost to any LEC which is providing voluntary post retirement benefits to its employees</u>. All any LEC must do is recognize these accrued liabilities on its financial books. In addition, this accounting change does not in any way alter the future liability the LECs have voluntarily elected to accept.

Even though the Commission should not allow LECs to increase current rates to pass on these "estimated" liabilities to their captive ratepayers, the LECs will need to account for the difference between their pay-as-you-go costs and their estimates of future liabilities. To do so, all the LECs need to do is record the difference as a regulatory asset by applying the requirements of SFAS 71 (Accounting for Effects of Certain Types of Regulation). This is the same treatment a LEC could use if the depreciation expense prescribed by the Commission is different from the depreciation expense on its financial books.

The Commission has never "promised" the LECs that they would be granted exogenous treatment for SFAS 106. When the Commission adopted GNP-PI as an integral part of price caps it understood that this indicator was a macro view of the U.S. economy. The LECs also understood this. To now create a jigsaw puzzle out of GNP-PI so that pieces that the LECs want will specifically fit their picture is completely arbitrary. If the Commission allows exogenous treatment of post retirement benefits because the "full" impact on each individual LEC is not reflected immediately in GNP-PI, the Commission will also have to remove the pieces of GNP-PI which overstate or incorrectly state conditions of the U.S. economy relative to each individual LEC. For instance, included in the GNP-PI calculation is residential investment. Therefore, GNP-PI is overstated by the amount residential investment impacts the calculation because the LECs do not invest in residential property. There are hundreds of inputs to the calculation of GNP-PI which have nothing to do with a LEC's cost of providing service. Each and every one of these must be removed so that only the specific inputs relative to an individual LEC are included and a specific calculation of each LEC's GNP-PI must be conducted. The end result of this drill would be traditional rate of return regulation, the very form of regulation the Commission eliminated when it adopted its form of price cap regulation.

Fairness to ratepayers demands that if for some reason the Commission decides to allow the LECs partial exogenous treatment, it must also undertake a full-scale investigation of LEC access charges and return to ratepayers all amounts which are being unreasonably assessed. For instance, ratepayers have been paying the LECs taxes at marginal tax rates. However, the LECs do not pay their taxes at the marginal rate. By taking advantage of their overall corporate structure, the LECs realize a lower tax liability that ratepayers never benefit from. The Commission should also investigate the LECs' pension funds and require excess funding to be flowed through to ratepayers.

Sincerely,

Donald F. Evans
Director
Federal Regulatory Affairs

cc: L. Oliver
C. Rath
M. Kuchera
L. Belvin
K. Abernathy